

GENERAL ORDERS, }

WAR DEPARTMENT,

ADJUTANT GENERAL'S OFFICE,

No. 204.

Washington, July 2, 1863.

I.. Before a General Court Martial, which convened at the camp of the 2d Brigade, Abercrombie's Division, Hunter's Chapel, Virginia, February 19, 1863, pursuant to Special Orders, No. 5, dated Headquarters, Abercrombie's Division, Arlington, Virginia, January 22, 1863, and of which Lieutenant Colonel JOSEPH A. DALTON, 40th Massachusetts Volunteers, is President, was arraigned and tried—

Captain *John H. Behan*, 16th Virginia Volunteers.

CHARGE I.—“Conduct to the prejudice of good order and military discipline.”

*Specification 1st*—“In this; that he, the said Captain *John H. Behan*, Company ‘F,’ 16th Regiment Virginia Volunteers, while on duty in camp, on or about the 12th day of December, 1862, did use abusive and grossly insulting language to Joseph B. Hamilton, 2d Lieutenant of said Company ‘F,’ before and in the presence of said Company ‘F,’ while he, the said Joseph B. Hamilton, was on duty and was acting Adjutant of said 16th Regiment Virginia Volunteers, in words as follows, to wit: ‘There goes our half-assed Adjutant;’ which was calculated to impair and weaken the influence and control of said Lieutenant Joseph B. Hamilton as Adjutant of said Regiment, and also his influence and control over said Company. All this at or near Miner’s Hill, Virginia, on or about the 12th day of December, 1862.”

*Specification 2d*—“In this; that he, the said Captain *John H. Behan*, while on duty, did, on or about the 12th day of December, 1862, order his Company to turn out for roll-call at reveille, in the following words, to wit: ‘Turn out you lazy sons of bitches, every God damned one of you.’ This in camp at Miner’s Hill, Virginia.”

CHARGE II.—“Conduct unbecoming an officer and a gentleman.”

*Specification 1st*—“In this; that he, the said Captain *John H. Behan*,

did, on or about the 15th day of November, 1862, receive from James H. Feeny, a private in Company 'F,' 16th Regiment Virginia Volunteers, a sword, knowing the same to have been stolen, and did afterwards keep and use the same, and also did afterwards recommend the said James H. Feeny and obtain for him a Sergeant's warrant. This at Camp Close, near Alexandria, Virginia, on or about the 15th day December, 1862."

*Specification 2d*—"In this; that he, the said Captain *John H. Behan*, on or about the tenth day of October, 1862, did receive from Philip C. Anderson, a drummer in the 16th Regiment Virginia Volunteers, the sum of thirty-four dollars, or thereabouts, to be by him held in trust for said Philip C. Anderson until he, the said Philip C. Anderson, should call for the same; that although the said Captain John H. Behan has often been called upon by the said Philip C. Anderson, and by other persons authorized by him so to do, in behalf of him, the said Philip C. Anderson, yet he, the said John H. Behan, hath utterly refused to restore such said sum of money to the said Philip C. Anderson, but hath kept and still doth keep and retain the same. This at Camp Close, near Alexandria, Virginia."

*Specification 3d*—"In this; that he, said Captain *John H. Behan*, 16th Regiment Virginia Volunteers, while on duty in camp on or about the 12th day of December, 1862, did use abusive and grossly insulting language to Joseph B. Hamilton, 2d Lieutenant of said Company 'F,' before and in the presence of said Company 'F,' while he, the said Joseph B. Hamilton, was on duty and was acting Adjutant of the said 16th Regiment Virginia Volunteers, in words as follows, to wit: 'There goes our half-assed Adjutant;' which was calculated to weaken and impair the influence of said Lieutenant Joseph B. Hamilton as Adjutant of said Regiment, and also his influence and control over said Company. All this at or near Miner's Hill, Virginia, on or about the 12th day of December, 1862."

To which charges and specifications the accused, Captain *John H. Behan*, 16th Virginia Volunteers, pleaded "Not Guilty."

## FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Captain *John H. Behan*, 16th Virginia Volunteers, as follows:

## CHARGE I.

Of the 1st *Specification*, "Not Guilty."

Of the 2d *Specification*, "Not Guilty."

Of the CHARGE, "Not Guilty."

## CHARGE II.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

Of the 3d *Specification*, "Not Guilty."

Of the CHARGE, "Guilty."

## SENTENCE.

And the Court does therefore sentence him, Captain *John H. Behan*, 16th Virginia Volunteers, "*To be dismissed the service of the United States.*"

II.. Before a General Court Martial, which convened at the Headquarters, Pennsylvania Reserve Division, March 30, 1863, pursuant to General Orders, No. 10, dated March 6, 1863, and Special Orders, No. 55, dated March 23, 1863, Headquarters, Division Pennsylvania Reserve Volunteer Corps, Upton's Hill, Virginia, and of which Colonel WILLIAM McCANDLESS, 2d Pennsylvania Reserve Volunteers, is President, was arraigned and tried—

1st Lieutenant *Charles W. Mackey*, 10th Pennsylvania Reserve Volunteers.

CHARGE.—"Violation of the 52d Article of War. Misbehavior before the enemy."

*Specification*—"That 1st Lieutenant *Charles W. Mackey*, Company 'C,' 10th Regiment of Infantry, Pennsylvania Reserve Volunteer Corps, did, without any just cause, he being in good health at the time, shamefully abandon his Company and Regiment while they were preparing to move to the front to engage the enemy. All this at or near Fredericksburg, Virginia, on or about the 13th day of December, 1862."

To which charge and specification the accused, 1st Lieutenant *Charles W. Mackey*, 10th Pennsylvania Reserve Volunteers, pleaded "Not Guilty."

#### FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, 1st Lieutenant *Charles W. Mackey*, 10th Pennsylvania Reserve Volunteers, as follows:

Of the *Specification*, "Guilty."

Of the *CHARGE*, "Guilty."

#### SENTENCE.

And the Court does therefore sentence him, 1st Lieutenant *Charles W. Mackey*, 10th Pennsylvania Reserve Volunteers, "*To forfeit all pay and allowances now due, and to be dishonorably dismissed the service of the United States.*"

III.. Before a General Court Martial, which convened at the Headquarters, Cavalry Brigade, Third Corps, November 25, 1862, pursuant to Orders, No. 3, dated Headquarters, 2d Cavalry Brigade, near Fort Scott, Virginia, November 9, 1862, and of which Colonel C. H. TOWN, 1st Michigan Volunteer Cavalry, is President, was arraigned and tried—

Private *Martin Finley*, Company "I," 5th New York Volunteer Cavalry.

CHARGE.—"Violation of the 9th Article of War."

*Specification* 1st—"In this; that the said Private *Martin Finley*, of Company 'I,' 5th New York Cavalry, did, on the 18th day of November, 1862, raise an axe to strike his superior officer, Captain George C. Morton, while in the execution of his duty, and said he would cut his head off, or words to that effect."

*Specification* 2d—"In this; that while the officers of Company 'I,' 5th New York Cavalry, Captain George C. Morton, Lieutenant William B. Cary, and Lieutenant Sullivan, were trying to have the said Private *Martin Finley*, Company 'I,' 5th New York Cavalry, tied to prevent him doing violence to 1st Sergeant William B.

Dume, Company 'I,' 5th New York Cavalry, with the axe before mentioned, he, the said Private Martin Finley, Company 'I,' 5th New York Cavalry, said he would shoot the officers of the Company, or words to that effect. All this at camp near Arlington House, Virginia, on the 18th day of November, 1862."

To which charge and specifications the accused, Private *Martin Finley*, Company "I," 5th New York Cavalry, pleaded "Not Guilty."

#### FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *Martin Finley*, Company "I," 5th New York Cavalry, as follows:

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

Of the *CHARGE*, "Guilty."

#### SENTENCE.

And the Court does therefore sentence him, Private *Martin Finley*, Company "I," 5th New York Volunteer Cavalry, "*To be shot to death at such time and place as the President of the United States shall direct.*"

IV..The proceedings of the Court in the case of Captain *John H. Behan*, 16th Virginia Volunteers, have been approved by the proper commander, and forwarded for the action of the President of the United States, who approves the sentence, and Captain *Behan* ceases to be an officer in the United States service from the 24th day of June, 1863.

The proceedings of the Court in the case of 1st Lieutenant *Charles W. Mackey*, 10th Pennsylvania Reserve Volunteers, have been approved by the proper commanders, and forwarded for the action of the President of the United States, who approves the sentence, and 1st Lieutenant *Mackey* ceases to be an officer in the United States service from the 23d day of June, 1863.

The proceedings of the Court in the case of Private *Martin Finley*, Company "I," 5th New York Volunteers, have been approved by the proper commander, and forwarded for the action of the President of

the United States. The record of the Court is fatally defective in not showing that two-thirds of the members concurred in the sentence. The sentence is therefore inoperative, and Private Finley will be restored to duty.

**BY ORDER OF THE SECRETARY OF WAR:**

**E. D. TOWNSEND,**

*Assistant Adjutant General.*